## IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT OF ALABAMA SOUTHERN DIVISION

DARRELL DAN FLOYD,	)	
	)	
Plaintiff,	)	
	)	
	)	
v.	)	1:05-CV-00848-WKW
	)	[wo]
CITY OF DOTHAN, ALABAMA,	)	
	)	
Defendant.	)	

## **ORDER**

On January 4, 2006, the Magistrate Judge filed a Recommendation (doc. #10) in this case to which no timely objections have been filed. Upon an independent review of the file in this case and upon consideration of the Recommendation of the Magistrate Judge which is hereby ADOPTED, it is

ORDERED that this action is dismissed with prejudice<sup>1</sup> for lack of prosecution and pursuant to 28 U.S.C.§ 1915(e)(2)(B)(i) and (ii)."<sup>2</sup>

<sup>&</sup>lt;sup>1</sup>The recommendation for dismissal *with prejudice* is warranted to deter this *pro se* plaintiff's abusive pattern of filing frivolous lawsuits against governmental entities and officers. *See, e.g.*, *Floyd v. Dothan City Police*, 1:05cv-0851-F, for which a similar recommendation is entered herewith, and *Floyd v. Special Agent Conner*, 1:05-cv-0089-F.

<sup>&</sup>lt;sup>2</sup>Pursuant to 28 U.S.C. §§ 1915(e)(2)(B)(i) and (ii), the court "shall dismiss the case" by a plaintiff proceeding *in forma pauperis* "at any time if [it] determines that the action.... (i) is frivolous or malicious, or (ii) fails to state a claim on which relief may be granted." At any stage of the proceedings, a case is frivolous for the purpose of § 1915(e)(2)(B)(i) when it appears that the plaintiff "has little or no chance of success." *See Denton v. Hernandez*, 504 U.S. 25, 32-33 (1992); *Carroll v. Gross*, 984 F.2d 392, 393 (11<sup>th</sup> Cir. 1993). A district court may conclude that a case has little or no chance of success and dismiss the complaint before service of process when it determines from the face of the complaint that the factual allegations are "clearly baseless," that the legal theories are "indisputably meritless," or that plaintiff "seeks monetary relief against a defendant who is immune from such relief." *Neitzke v. Williams*, 490 U.S. 319, 327 (1989); *Denton*, *id*. A

Done	this	27 <sup>th</sup>	day	of	Fehr	narv	2006
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/s/ W. Keith Watkins
UNITED STATES DISTRICT JUDGE

complaint may be dismissed under 28 U.S.C. § 1915(e)(2)(B)(ii) for failure to state a claim upon which relief may be granted "only if it is clear that no relief could be granted under any set of facts that could be proved." *Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984).